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Dickinson Wright PLLC 38525 Woodward Avenue Suite 2000 Bloomfield Hills, MI 48304			EXAMINER NEWHOUSE, NATHAN JEFFREY	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/604,566  
Filing Date: July 30, 2003  
Appellant(s): WILLIAMS ET AL.

**MAILED**  
**NOV 29 2007**  
**GROUP 3700**

\_\_\_\_\_  
Vincent C. Ilagan  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed February 12, 2007 appealing from the Office action mailed October 11, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

<b>5143415</b>	<b>Boudah</b>	<b>9-1992</b>
<b>3734110</b>	<b>Burns</b>	<b>5-1973</b>
<b>6056176</b>	<b>Aftanas et al</b>	<b>5-2000</b>

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 21 – 27, 29 – 33, 35 – 37 & 40 – 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boudah (U.S. Patent Number 5143415) in view of Burns (U.S. Patent Number 3734110).

Boudah discloses the first pair of support rails (17 & 18); the second pair of support rails (17 & 18) telescopically coupled (14) (See Figure 5) to the first pair of support rails (17 & 18) (See Figures 1, 2 & 5); and at least one pair of pillar members (11) extending from the second pair of support rails (17 & 18) and slidably attached (See Figures 3, 4, 7 & 9) to the pair of sidewalls (1) defining the truck bed of the vehicle (See Column 2, lines 47 – 48) (See Figures 1, 3 & 7); the at least one pair of pillar members (11) substantially longer than the at least one pair of legs (2); the telescoping

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rack assembly moveable between the retracted position (See Figure 2 / Bottom Figure) and the extended position (See Figure 2 / Top Figure); the telescoping rack assembly in the retracted position (See Figure 2) with at least one pair of pillar members (11) adjacent to the at least one pair of legs (2) (See Figures 1 – 10).

However, Boudah does not disclose the roof rack assembly and at least one pair of legs extending from first pair of support rails attached to the roof of the vehicle.

Burns teaches the roof rack assembly and at least one pair of legs (10) extending from the first pair of support rails (31, 32 & 33) attached to the roof (11) of the vehicle (See Figure 1) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make roof rack assembly and at least one pair of legs extending from first pair of support rails attached to the roof of the vehicle as taught by Burns with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance multi-functional capabilities.

Regarding claim 22, Boudah discloses the telescoping rack assembly (See Figures 1 & 2) in retracted position (See Figure 2 / Bottom Figure) comprising the second pair of support rails (17 & 18) retracted substantially within the first pair of support rails (17 & 18) (See Figure 2).

However, Boudah does not disclose the roof rack assembly. Burns teaches the roof rack (See Figure 1) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make roof rack assembly as taught by Burns with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance multi-functional capabilities.

Regarding claim 23, Boudah discloses the telescoping rack assembly in the extended position (See Figure 2 / Top Figure) comprising the second pair of support rails (17 & 18) substantially extended from the first pair of support rails (17 & 18) (See Figure 2).

However, Boudah does not disclose the roof rack assembly. Burns teaches the roof rack (See Figure 1) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make roof rack assembly as taught by Burns with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance multi-functional capabilities.

Regarding claim 24, Boudah discloses the first pair of support rails (17) and the second pair of support rails (17) having intermediate pair of support rails (18) slidably attached therebetween (See Figure 2).

Regarding claim 25, Boudah discloses the passenger cab (See Figure 1); the roof extending over the passenger cab (See Figure 1); the truck bed with the pair of

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sidewalls (1) (See Figure 1) extending rearward from the passenger cab (See Figure 1); Boudah discloses the first pair of support rails (17 & 18); the second pair of support rails (17 & 18) telescopically coupled (14) (See Figure 5) to the first pair of support rails (17 & 18) (See Figures 1, 2 & 5); and at least one pair of pillar members (11) extending from the second pair of support rails (17 & 18) and slidably attached (See Figures 3, 4, 7 & 9) to the pair of sidewalls (1) defining the truck bed of the vehicle (See Column 2, lines 47 – 48) (See Figures 1, 3 & 7); the at least one pair of pillar members (11) substantially longer than the at least one pair of legs (2); the telescoping rack assembly moveable between the retracted position (See Figure 2 / Bottom Figure) and the extended position (See Figure 2 / Top Figure); the telescoping rack assembly in the retracted position (See Figure 2) with at least one pair of pillar members (11) adjacent to the at least one pair of legs (2) (See Figures 1 – 10).

However, Boudah does not disclose the roof rack assembly and at least one pair of legs extending from first pair of support rails attached to the roof of the vehicle.

Burns teaches roof rack assembly and at least one pair of legs (10) extending from the first pair of support rails (31, 32 & 33) attached to the roof (11) of the vehicle (See Figure 1) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make roof rack assembly and at least one pair of legs extending from first pair of support rails attached to the roof of the vehicle as taught by Burns with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance multi-functional capabilities.

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Furthermore, Boudah discloses at least one pair of pillar members (11) slidably attached (See Figures 3, 7 & 9) to the pair of sidewalls (1) (See Figures 1, 3 & 7).

However, Boudah does not disclose at least one pair of legs attached to the roof.

Burns teaches at least one pair of legs (10) attached to the roof (11) (See Figure 1) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make at least one pair of legs attached to the roof as taught by Burns with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance multi-functional capabilities.

Regarding claim 26, Boudah the roof having the front end portion and the back end portion (See Figure 1).

However, Boudah does not disclose the roof with two of the pairs of legs extending therefrom.

Burns teaches the roof (11) with the pairs of legs (10) extending therefrom (See Figure 1) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the roof with the pairs of legs extending therefrom as taught by Burns with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance multi-functional capabilities.

However, Burns does not disclose two of the pairs of legs.



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It would have been obvious to one having ordinary skill in the art at the time the invention was made to make two of the pairs of legs, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 27, Boudah discloses the first pair of support rails (17 & 18) extends substantially along the length of the roof (See Figure 1).

Regarding claim 29, Boudah discloses the telescoping rack assembly in the retracted position comprises the second pair of support rails (17 & 18) extending substantially along the length of the roof (See Figure 1).

However, Boudah does not disclose the roof rack assembly. Burns teaches the roof rack (See Figure 1) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make roof rack assembly as taught by Burns with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance multi-functional capabilities.

Regarding claim 30, Boudah the telescoping rack assembly in the retracted position comprises the second pair of support rails.

However, Boudah does not disclose the roof rack comprising the second pair of support rails disposed above the roof.

Burns teaches the roof rack assembly comprising the second pair of support rails (31) disposed above the roof (11) (See Figure 1) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make roof rack assembly comprising the second pair of support rails disposed above the roof as taught by Burns with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance multi-functional capabilities.

Regarding claim 31, Boudah discloses the telescoping rack assembly in the extended position (See Figures 1 & 2) comprises the second pair of support rails (17 & 18) extending substantially along the length of the truck bed (See Figure 1).

However, Boudah does not disclose the roof rack assembly. Burns teaches the roof rack (See Figure 1) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make roof rack assembly as taught by Burns with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance multi-functional capabilities.

Regarding claim 32, Boudah discloses the telescoping rack assembly in the extended position (See Figures 1 & 2) comprises the second pair of support rails (17 & 18).

However, Boudah does not disclose the roof rack assembly. Burns teaches the roof rack (See Figure 1) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make roof rack assembly as taught by Burns with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance multi-functional capabilities.

However, Boudah does not disclose the roof rack assembly comprising the second pair of support rails disposed above the roof.

Burns teaches the roof rack assembly comprising the second pair of support rails (31) disposed above the roof (11) (See Figure 1) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make roof rack comprising the second pair of support rails disposed above the roof as taught by Burns with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance multi-functional capabilities.

Regarding claim 33, Boudah the roof having the front end portion and the back end portion (See Figure 1).

However, Boudah does not disclose the roof with two of the pairs of legs extending therefrom.

Burns teaches the roof (11) with the pairs of legs (10) extending therefrom (See Figure 1) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the roof with the pairs of legs extending therefrom as taught by Burns with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance multi-functional capabilities.

However, Burns does not disclose two of the pairs of legs.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make two of the pairs of legs, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 35, Boudah discloses the passenger cab (see Figure 1); the roof extending over the passenger cab (See Figure 1); the truck bed (See Figure 1) with the pair of opposing sidewalls (1) extending rearward from the passenger cab (See Figure 1); and the telescoping rack assembly comprising of the first pair of support rails (17 & 18), the second pair of support rails (17 & 18) (See Figure 1), at least one pair of legs (2) (See Figures 1, 2 & 7) and at least one pair of pillar members (11); the second pair of support rails (17 & 18) telescopically coupled (See Figures 1 & 2) to the first pair of support rails (17 & 18), the at least one pair of legs (2) extending from the first pair of support rails (17 & 18) (See Figure 1); at least one pair of pillar members (11) extending from the second pair of support rails (17 & 18) and slidably attached (See Figures 3, 4, 7 & 9) to the pair of sidewalls (1) defining the truck bed of the vehicle; the at least one pair of pillar members (11) substantially longer than the at least one pair of legs (2) (See

Figure 1); the telescoping rack assembly moveable between the retracted position (See Figure 2) and the extended position (See Figure 2); the telescoping rack assembly in the retracted position (See Figure 2) with the at least one pair of pillar members (11) substantially adjacent to the pair of leg portions (2) (See Figure 1); the telescoping rack assembly in the retracted position (See Figure 2) with the first pair of support rails (17 & 18) receiving substantially the length of the second pair of support rails (17 & 18) (See Figures 1 – 8).

However, Boudah does not disclose the roof rack assembly and at one pair of legs extending from first pair of support rails attached to the roof of the vehicle.

Burns teaches the roof rack assembly and at least one pair of legs (10) extending from the first pair of support rails (31, 32 & 33) attached to the roof (11) of the vehicle (See Figure 1) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the roof rack assembly and at least one pair of legs extending from first pair of support rails attached to the roof of the vehicle as taught by Burns with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance multi-functional capabilities.

Regarding claim 36, Boudah discloses the first pair of support rails (17 & 18) are positioned substantially parallel to each other and generally along the longitudinal axis of the vehicle (See Figure 1).

Regarding claim 37, Boudah discloses the second pair of support rails (17 & 18) are positioned substantially parallel to each other and generally along the longitudinal axis of the vehicle (See Figure 1).

Regarding claim 40, Boudah discloses the telescoping rack assembly (See Figure 1) in the retracted position (See Figure 2) with the at least one pair of pillar members (11) extending from the frontal portion of the pair of sidewalls (1) (See Figure 1); and the telescoping rack assembly (See Figure 1) in the extended position (See Figure 2) with the at least one pair of pillar members (11) extending from the rearward end portion of the pair of sidewalls (1) (See Figure 1).

However, Boudah does not disclose the roof rack assembly. Burns teaches the roof rack assembly (See Figure 1) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make roof rack assembly as taught by Burns with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance multi-functional capabilities.

Regarding claim 41, Boudah discloses the cab (See Figure 1); the truck bed with the pair of sidewalls (1) extending from the cab (See Figure 1); the cab having the roof with the front portion and the rear portion (See Figure 1); the telescoping rack assembly (See Figures 1 & 2) having the bed rack portion; the bed rack portion slidably attached

(See Figures 3, 7 & 9) to the pair of sidewalls (1); the bed rack portion movable between the forward position and the rearward position on the pair of sidewalls (1) (See Figures 1, 3, 4, 7 & 9); the bed rack portion in the forward position adjacent to the cab.

However, Boudah does not disclose the roof rack assembly having the roof rack portion and the bed rack portion; the roof rack portion attached to the roof in the fixed position extending along the front portion and the rear portion and extending along the roof.

Burns teaches the roof rack assembly (See Figure 1) having the roof rack portion (See Figure 1) and the bed rack portion (See Figure 1); the roof rack portion (See Figure 1) attached to the roof (11) in the fixed position (See Figure 3) extending along the front portion and the rear portion and extending along the roof (See Figure 1) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the roof rack assembly having the roof rack portion and the bed rack portion; the roof rack portion attached to the roof in the fixed position extending along the front portion and the rear portion and extending along the roof as taught by Burns with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance multi-functional capabilities.

Regarding claim 42, Boudan discloses the rack portion includes the first pair of support rails (17 & 18) with at least one pair of legs (2).

However, Boudan does not disclose the roof rack portion including the first pair of support rails with at least one pair of legs attached to the front end portion of the roof.

Burns teaches the roof rack portion (See Figure 1) includes the first pair of support rails (31, 32 & 33) with at least one pair of legs (10) (See Figure 1) for the purpose of providing reliability.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the roof rack portion including the first pair of support rails with at least one pair of legs attached to the front end portion of the roof as taught by Burns with the the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance reliability.

Regarding claim 43, Boudan discloses the bed rack portion (See Figure 1) includes the second pair of support rails (17 & 18) with at least one pair of pillar members (11) slidably attached (See Figures 1, 3, 4, 7 & 9) to the pair of sidewalls (1).

Regarding claim 44, Boudan discloses the second pair of support rails (17 & 18) is telescopically attached (See Figures 1 & 2) to the first pair of support rails (17 & 18) (See Figures 1 & 2).

Regarding claims 45, Boudan discloses the second pair of support rails (17 & 18) in the forward position extends over the cab (See Figure 1).



Furthermore, Burns also discloses the second pair of support rails (32 & 33) in the forward position extends over the cab (See Figure 1).

Regarding claim 46, Boudan discloses at least one pair of pillar members (11) in the forward position is adjacent to the cab (See Figure 1).

Regarding claim 47, Boudan discloses the first pair of support rails (17 & 18) receives the second pair of support rails (17 & 18) in the forward position.

Claims 38 & 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boudah (U.S. Patent Number 5143415) in view of Burns (U.S. Patent Number 3734110) as applied to claim 35 above, and further in view of Aftanas et al., (U.S. Patent Number 6056176). Boudah discloses the invention substantially as claimed. Boudah discloses the first pair of support rails (17 & 18) having the cross member (17 & 18).

However, Boudah as modified does not disclose the first pair of support rails having at least two cross members extending therebetween.

Aftanas et al., teaches the first pair of support rails (12) having at least two cross members (20) extending therebetween (see Figures 1 & 18) for the purpose of providing durability.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the first pair of support rails having at least two cross

members extending therebetween as taught by Aftanas et al., with the telescoping roof rack assembly for a vehicle having a truck bed of Boudah in order to enhance durability.

Regarding claim 39, Boudah discloses the cross members (17 & 18) is adjacent to the pillar members (11) in the retracted position (See Figures 1 & 2).

### **(10) Response to Argument**

1. Appellant argues that Boudah does not disclose the claimed legs and pillar members adjacent to each other when the rack assembly is moved to the retracted position.

In response to appellant's argument that Boudah does not disclose the claim legs and pillar members being adjacent to each other when the telescoping roof rack assembly is moved to the retracted position.

The specification filed on September 30, 2003 does not define the term "adjacent".

Therefore, the term "adjacent" was given the broadest reasonable interpretation and for the purpose of examination the term "adjacent" was defined as: "near or close to but not necessarily touching".

Moreover, the term "adjacent" is a relative term.

For example, "lands adjacent to the mountains"; "New York and adjacent cities".

Therefore, Boudah teaches with the removal of support rails (17 & 18), the legs (2) and pillar members (11) capable of sliding towards abutment; wherein the legs and the pillars would be adjacent to each other when the telescoping roof rack assembly is in the retracted position.

In addition, Boudah in combination with Burns, Boudah also teaches with the removal of support rails (17 & 18), the leg (2) and pillar member (11) of the telescoping roof rack assembly would be "adjacent" to the leg and pillar member (10) of Burns in the retracted position to the degree as disclosed in the appellant (Figure 2A) filed on September 30, 2007.

2. Appellant argues that Boudah does not disclose the claimed first support rails and second support rails telescopically coupled together and movable to the retracted position with the claimed pillar members adjacent to legs.

In response to appellant's argument that Boudah does not disclose the claimed first support rails and second support rails telescopically coupled together and movable to the retracted position with the claimed pillar members adjacent to legs.

Boudah teaches the first support rails (17 & 18) being the front section and Boudah further teaches the second support rails (17 & 18) is the rear section of Figure 2 top section. The front support rail is capable of telescoping independently from the rear section support rails.

Meaning, the front half end portion of (18) in Figures 1 & 2 is capable of telescoping into the front section of support rail (17). In addition, the rear half end

portion of (18) is capable of telescoping into the rear section (17) (See Column 2, lines 59 – 68) (See Figures 1 & 2) independently from the front end portion of (18).

Moreover, (18) comprises of the front half of (18) connected to the rear half of (18).

Therefore, the support rails of Boudah are capable of disengaging (19) in the front of (17), wherein the front half end portion of (18) is capable of retracting into the front (17).

Boudah also teaches entire length of (18) is capable of being retracted into the front portion of (17). By having (18) retracted more than the half way point (18), it is clear that the rear second half of (18) which is a part of the second support rails, discloses the second support rail being retracted into the first support rail.

Moreover, Boudah also teaches that the disengagement of (19) in the rear of (17), wherein the rear half end portion of (18) is capable of retracting into the rear of (17).

Boudah also teaches the entire length of (18) is capable of being retracted into the rear portion of (17). By having (18) retracted more than the half way point, it is clear that the front portion of (18) which is a part of the front second support rails, discloses the first support rail being retracted into the second support rail.

Finally, when the front and or rear portion of (18) is telescopingly retracted into the front and or rear portion of (17), the pillars (11) as claimed move <sup>closer</sup> ~~closure~~ towards each other, therefore, making the pillars as claimed adjacent to the legs, as defined above for the purpose of examination having the broadest reasonable interpretation.

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3. Appellant argues Boudah does not disclose the claimed second pair of support rails retracted substantially within the first pair of support rails, with the pillar members extended from the second support rails and slidably attached to sidewalls defining the truck bed.

In response to appellant's arguments that Boudah does not disclose the second pair of support rails retracted substantially within the first pair of support rails, with the pillar members extended from the second support rails and slidably attached to sidewalls defining the truck bed.

Boudah teaches the second pair of support rails (17 & 18 in rear section), wherein the second end rear portion of (17) is retracted substantially within the first pair of support rails.

Moreover, (18) comprises of the front half of (18) connected to the rear half of (18).

Therefore, the support rails of Boudah are capable of disengaging (19) in the front of (17), wherein the front half end portion of (18) is capable of retracting into the front (17).

Boudah also teaches entire length of (18) is capable of being retracted into the front portion of (17). By having (18) retracted more than the half way point (18), it is clear that the rear second half of (18) which is a part of the second support rails, discloses the second support rail being retracted into the first support rail.

Moreover, Boudah also teaches that the disengagement of (19) in the rear of (17), wherein the rear half end portion of (18) is capable of retracting into the rear of (17).

Boudah also teaches the entire length of (18) is capable of being retracted into the rear portion of (17). By having (18) retracted more than the half way point, it is clear that the front portion of (18) which is a part of the front second support rails, discloses the first support rail being retracted into the second support rail.

4. Appellant argues Boudah does not disclose the claimed pair of legs extending from the front-end portion of the roof.

In response to appellant's arguments that Boudah does not disclose the claimed pair of legs extending from the front-end portion of the roof.

Boudah in combination with Burns teaches the pair of legs (10) extending from the front-end portion of the roof.

Burns teaches the legs (10) being attached to the roof cab portion of a truck vehicle.

Therefore, the legs (10) Burns are capable of being attached to the roof of the vehicle based on the users digressions and preference.

5. Appellant argues Boudah does not disclose the claimed first pair of support rails extending substantially along the length of the roof and telescopically coupled to the second pair of support rails.

In response to appellant's argument that Boudah does not disclose the first pair of support rails extending substantially along the length of the roof and telescopically coupled to the second pair of support rails.

Boudah in combination with Burns teaches the pair of legs capably attached to the roof of the vehicle based; wherein the telescoping support rails (17 & 18) front portions will have the functionality of having the front end half portion of (18) retractably capable to telescope partially over the cab roof and have a locked position (19).

6. Appellant argues Boudah does not disclose the claimed rack assembly in the retracted position with the second pair of support rails extending substantially along the length of the roof.

In response to appellant's arguments that Boudah does not disclose the retracted position with the second pair of support rails extending substantially along the length of the roof.

Boudah as modified by Burns is capable of teaching the claimed rack assembly in the retracted position with the second pair of support rails extending substantially along the length of the roof.

The legs (10) of Burns are capable of being attached to truck vehicle having an extended cab with 4 doors, wherein, making the roof of the cab longer. Furthermore, in conjunction with the truck having an extended cab, the user has the digression and ability to attach the legs (10) to the roof of the cab closer to the A-pillars of the truck.

Therefore, for the reasons listed above, Boudah as modified by Burns is capable of having a rack assembly in the retracted position with the second pair of support rails (17 & 18 rear) extending substantially along the length of the roof.

7. Appellant argues Boudah does not disclose the rack assembly in the extended position with the second pair of support rails extending substantially along the length of the truck bed.

In response to appellant's arguments that Boudah does not disclose the rack assembly in the extended position with the second pair of support rails extending substantially along the length of the truck bed.

Examiner disagrees, Boudah teaches the rack assembly in the extended position (See Figure 1) with the second pair (17 & 18 rear) substantially along the length of the truck bed (See Figure 1).

8. Appellant argues Boudah does not disclose the roof having the front portion and the rear portion with the roof rack portion attached to and extending along the front and rear portions.

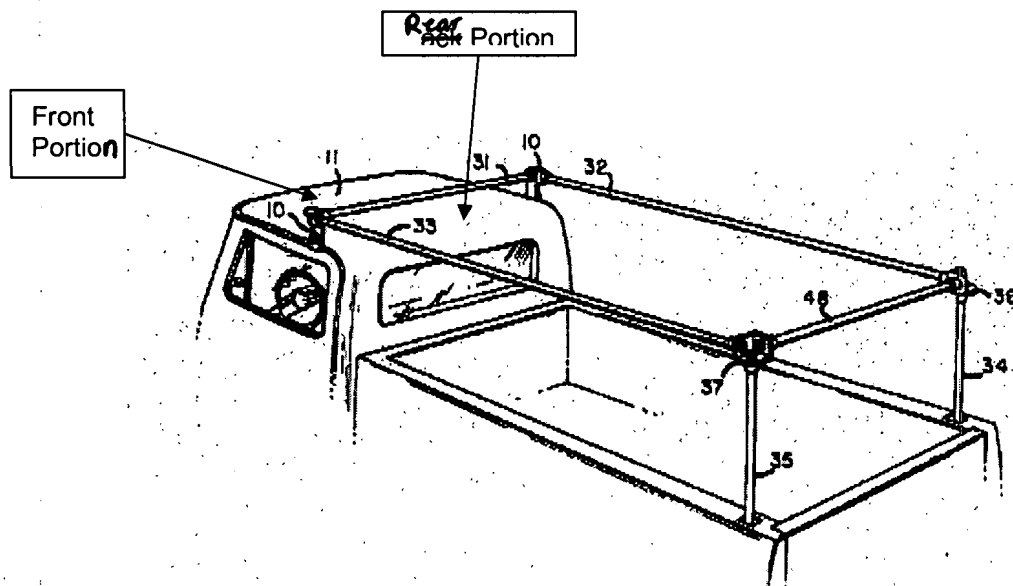
In response to appellant's arguments that Boudah does not disclose the front portion and the rear portion with the roof rack portion attached to and extending along the front and rear portions.

Examiner disagrees, Boudah teaches the front portion and the rear portion of the roof. Furthermore, Boudah as modified by Burns teaches the front portion and the rear



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portion with the roof rack portion attached to and extending along the front and rear portions.



9. Appellant argues Boudah does not disclose the claimed second support rails in the forward position extending over the cab.

In response to appellant's arguments that Boudah does not disclose the claimed second support rails in the forward position extending over the cab.

The legs (10) of Burns are capable of being attached to truck vehicle having an extended cab with 4 doors, wherein, making the roof of the cab longer. Furthermore, in conjunction with the truck having an extended cab, the user has the digression and ability to attach the legs (10) to the roof of the cab closer to the A-pillars of the truck.

Therefore, the second support rails (17 & 18 rear) in the forward position are capable of extending over the cab.

10. Appellant argues Boudah does not disclose the claimed pillar member moved to the forward position adjacent to the cab.

In response to appellant's arguments that Boudah does not disclose the claimed pillar member moved to the forward position adjacent to the cab.

The term "adjacent" was given the broadest reasonable interpretation and for the purpose of examination the term "adjacent" was defined as: "near or close to but not necessarily touching".

Boudah teaches the pillar member (11) is movable to the forward position adjacent to the cab as it slides along the rail.

11. Appellant argues Boudah does not disclose the legs and pillar members adjacent to each other when the telescoping roof rack assembly is moved to the retracted position.

In response to appellant's arguments that Boudah does not disclose the legs and pillar members adjacent to each other when the telescoping roof rack assembly is moved to the retracted position.

The term "adjacent" was given the broadest reasonable interpretation and for the purpose of examination the term "adjacent" was defined as: "near or close to but not necessarily touching".

Moreover, the term "adjacent" is a relative term.

For example, "lands adjacent to the mountains"; "New York and adjacent cities".

Therefore, Boudah teaches with the removal of support rails (17 & 18), the legs (2) and pillar members (11) capable of sliding towards; wherein the legs and the pillars would be adjacent to each other when the telescoping roof rack assembly is in the retracted position.

Therefore, Boudah as modified by Burns teaches the legs (10) of Burns attached to the roof cab of a truck; wherein the leg (10) of Burns is capable of being connected to the telescoping rack assembly of Boudah; wherein, the rack of Boudah being slidable to the retracted position; wherein, the leg (2) and pillar (11) of Boudah would be relatively "adjacent" to the leg (10) of Burns.

12. Appellant argues Boudah does not disclose the claimed first pair of support rails telescopically coupled to the second pair of support rails, with pillar members extending from the second support rails and being adjacent to legs extending from the first support rails when the rack is in the retracted position.

In response to the appellant's arguments that Boudah does not disclose the claimed first pair of support rails telescopically coupled to the second pair of support rails, with pillar members extending from the second support rails and being adjacent to legs extending from the first support rails when the rack is in the retracted position.

Boudah teaches the first pair of support rails (17 & 18 front) telescopically coupled to the second support rails (17 & 18 rear) and being adjacent to legs (2) extending from the first support rails (17 & 18 front) when the rack is in the retracted position (See Figure 2, second from the top figure).

Boudah also teaches entire length of (18) is capable of being retracted into the front portion of (17). By having (18) retracted more than the half way point (18), it is clear that the rear second half of (18) which is a part of the second support rails, discloses the second support rail being retracted into the first support rail.

Moreover, Boudah also teaches that the disengagement of (19) in the rear of (17), wherein the rear half end portion of (18) is capable of retracting into the rear of (17).

Boudah also teaches the entire length of (18) is capable of being retracted into the rear portion of (17). By having (18) retracted more than the half way point, it is clear that the front portion of (18) which is a part of the front second support rails, discloses the first support rail being retracted into the second support rail.

13. Appellant argues Boudah does not disclose the claimed second pair of support rails retracted substantially within the first pair of support rails, with pillar members extending from second support rails and slidably attached to sidewalls defining the truck bed.

In response to appellant's arguments that Boudah does not disclose the claimed second pair of support rails retracted substantially within the first pair of support rails, with pillar members extending from second support rails and slidably attached to sidewalls defining the truck bed.

Boudah teaches the second pair of support rails (17 & 18 rear) is capable of retracting substantially within the first pair of support rails (17 front), with the pillar

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members (11) extending from the second support rail (17 rear) (See Figure 1) and slidably attached to sidewalls defining the truck bed (See Figure 1).

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

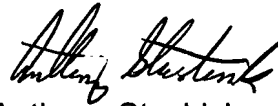
For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

November 9, 2007

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER

Conferees:

  
Anthony Stashick  
SPE Art Unit 3781

  
Boyer Ashley  
SPE Art Unit 3724